

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

In re	:	
	:	
THE IT GROUP, INC.,	:	Chapter 11
	:	Bankruptcy Case No. 02-10118-MFW
Post-Confirmation Estate	:	
	:	
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JOHN ACCARDI, et al.,	:	
	:	
Movant/Appellants,	:	
	:	
v.	:	Civ. Act. No. 04-146-JJF
	:	
IT LITIGATION TRUST, successor:	:	
in interest to IT CORPORATION,	:	
IT GROUP, INC., and their	:	
subsidiaries in bankruptcy,	:	
ANTHONY DeLUCA, FRANCIS	:	
HARVEY, HARRY SOOSE, and	:	
CARLYLE PARTNERS II, LP, et	:	
al.,	:	
	:	
Respondents/Appellees.	:	
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ROCHELLE BOOKSPAN,	:	
	:	
Movant/Appellant,	:	
	:	
v.	:	
	:	
IT LITIGATION TRUST, successor:	:	
in interest to the IT GROUP,	:	
INC., et al.,	:	
	:	
Respondents/Appellees.	:	

MEMORANDUM ORDER

Presently before the Court is an Emergency Ex Parte Request Of The Accardi Appellants And Rochelle Bookspan For Temporary Stay Of Order Releasing IT Trustee From Reserve Order And Authorizing Distribution Of Schedule C-1 Reserve, And For Order

Setting Briefing Schedule; Motion For Stay, Pending Appeal, Of Enforcement Of Orders Dismissing Adversary Proceedings, Of Order Releasing IT Trustee From Reserve Order And Authorizing Distribution Of Schedule C-1 Reserve; Request In The Alternative For Temporary Stay Pending Filing Of Request For Emergency Stay With The United States Court Of Appeals For The Third Circuit (D.I. 37). By their Motion, Appellants request the Court to issue an immediate temporary stay of enforcement of the October 7, 2005 Order issued by the United States Bankruptcy Court for the District of Delaware releasing the IT Trustee from the requirement that it maintain the Schedule C-1 Reserve and authorizing distribution of the reserve.

At the September 6, 2005 hearing and in the Order dated October 7, 2005, the Bankruptcy Court denied the Accardi Appellant's motion for a stay pending appeal, finding that the Accardi Appellants lack probability of success on the merits and that the balance of the harm falls on the estate, because it is holding funds on account of disallowed disputed claims, which is not required under the Plan. The Bankruptcy Court also concluded that the risk of harm to the Accardi Appellants of non-recovery is slight given the current pendency of the Estate Causes of Action in excess of \$70 million. The Court agrees with the rationale set forth by the Bankruptcy Court and likewise concludes that a stay pending appeal is not warranted.

However, the Court is cognizant that Appellants have a right

to appeal this Court's affirmance of the Bankruptcy Court's denial of the stay. Accordingly, the Court will stay this Order denying a stay, for a period of approximately ten (10) to allow Appellants an opportunity to file an appeal of the decision to deny a stay pending appeal with the Third Circuit.

NOW THEREFORE, IT IS HEREBY ORDERED this 13 day of October 2005, that:

1. The Emergency Ex Parte Request Of The Accardi Appellants And Rochelle Bookspan For Temporary Stay Of Order Releasing IT Trustee From Reserve Order And Authorizing Distribution Of Schedule C-1 Reserve, And For Order Setting Briefing Schedule; Motion For Stay, Pending Appeal, Of Enforcement Of Orders Dismissing Adversary Proceedings, Of Order Releasing IT Trustee From Reserve Order And Authorizing Distribution Of Schedule C-1 Reserve; Request In The Alternative For Temporary Stay Pending Filing Of Request For Emergency Stay With The United States Court Of Appeals For The Third Circuit (D.I. 37) is **DENIED**.

2. This Order is stayed until October 26, 2005, to allow Appellants time to seek a stay from the Court of Appeals for the Third Circuit.


UNITED STATES DISTRICT JUDGE